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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

MANUEL CARDENAS,
INDIVIDUALLY AND AS NEXT
FRIEND OF X.X. AND XY.X., MINORS,
Plaintiffs,

vs.

AMUEL TRUCKING LLC AND
AMANUEL TAMRAT,
Defendant.

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CIVIL ACTION NO. _____

DEFENDANTS' NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

Defendants, AMUEL TRUCKING, LLC and AMANUEL TAMRAT (hereafter, "Defendants") timely file this *Notice of Removal* pursuant to 28 U.S.C. §§ 1441(b) and 1446(c), invoking the Court's diversity jurisdiction pursuant to 28 U.S.C. § 1332.

I. INTRODUCTION

1. On July 18, 2023, Plaintiffs, MANUEL CARDENAS, Individually and as Next Friend of X.X. and XY.X., Minors ("Plaintiffs") filed their Original Petition in the 268th Judicial District Court of Fort Bend County, Texas, under Cause No. 23-DCV-306138, and styled as *Manuel Cardenas, Individually and as Next Friend of X.X. and XY.X., Minors v. Amuel Trucking LLC and Amanuel Tamrat. Ex. A* (Pls.' Orig. Pet.).
2. In the Petition, Plaintiffs assert claims against Defendants for negligence, negligence *per se*, and/or *respondeat superior* in connection with a motor vehicle accident that occurred on or about January 7, 2023, in the northbound lanes of U.S. Highway 59 in Fort Bend County, Texas. Plaintiffs seek recovery of damages for past and future medical expenses, past and future physical pain, past and future mental anguish, past and future disfigurement, past and

future impairment, past lost wages and future loss of earning capacity, and property damage, as well as pre-judgment and post-judgment interest and costs of suit.

3. Pursuant to 28 U.S.C § 1446(a), Defendants accompany this Notice with copies of all process, pleadings, and orders in the state court action, all of which are attached hereto as **Exhibit A**.

II. TIMELINESS OF REMOVAL

4. Plaintiffs filed this action in Texas state court on July 18, 2023, and Defendants waived service of process by filing their Original Answer on August 7, 2023. **Ex. A.** Defendants file this Notice “within thirty (30) days after recei[ving] . . . , through service or otherwise, a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based,” so Defendants’ notice is timely. 28 U.S.C. § 1446(b)(1).

III. BASIS FOR REMOVAL: DIVERSITY JURISDICTION

5. This Court has original jurisdiction over this lawsuit pursuant to 28 U.S.C. § 1332 (diversity jurisdiction). The requirements for diversity jurisdiction are met in this case, as Plaintiffs and Defendants are completely diverse in citizenship and the amount in controversy, exclusive of interests and costs, exceeds \$75,000.00.

A. Complete Diversity Exists.

6. Plaintiffs are all residents of Harris County, Texas, as set forth in their Petition. For purposes of diversity jurisdiction, “the state where someone establishes his domicile serves a dual function as his state of citizenship.” *Preston v. Tenet Healthsystem Mem'l Med. Ctr., Inc.*, 485 F.3d 793, 797 (5th Cir. 2007) (citing *Stine v. Moore*, 213 F.2d 446, 448 (5th Cir. 1954)). Domicile requires the demonstration of two factors: residence and the intention to remain. *Preston*, 485 F.3d at 797. In the case at bar, Plaintiff Cardenas has held a Texas driver’s license since at least 1996 and has owned a home in Texas since at least 2013. “Under Texas common

law, a minor is ‘not sui juris, and can neither select nor change its domicile, which is fixed by law as that of its father.’” *Arredondo v. Brockette*, 648 F.2d 425, 431 (5th Cir. 1981) (quoting *Smith v. Ansley*, 257 S.W.2d 156, 157 (Tex.Civ.App. — Waco 1953, writ ref’d n.r.e.)). In the case at bar, as pled in Plaintiffs’ Original Petition, Plaintiff Cardenas “is the natural father of Minors X.X. and XY.X.” Pls.’ Pet. at 2, para. 3. Accordingly, all Plaintiffs are citizens of Texas for purposes of diversity jurisdiction.

7. Defendants are all citizens of Virginia. “[T]he citizenship of a LLC is determined by the citizenship of all of its members.” *Harvey v. Grey Wolf Drilling, Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008). Here, Defendant Amuel Trucking, LLC, has a single member, which is Defendant Amanuel Amrat, who is a citizen of Virginia. Defendant Amanuel Amrat has lived, studied, and worked in Virginia since at least 2014. Defendant Amanuel Amrat has held a Virginia Commercial Driver’s License since at least 2021. Accordingly, all Defendants are citizens of Virginia.
8. Because all Plaintiffs are citizens of Texas and all Defendants are citizens of Virginia, there is a complete diversity of parties as required by 28 U.S.C. § 1332.

B. The Amount in Controversy Exceeds \$75,000.00.

9. In their Original Petition, Plaintiffs seek “monetary relief in excess of \$1,000,000. Pls.’ Pet. at 6, para. 20. Therefore, based on the amount of monetary damages Plaintiffs allege, the amount in controversy exceeds \$75,000.00 and removal is proper.

IV. VENUE

10. Venue is proper in the Southern District of Texas, Houston Division, pursuant to 28 U.S.C. § 1441(a) because Fort Bend County, Texas, is located within this District, and cases arising

from Fort Bend County, Texas, are properly assigned to the District's Houston Division. 28 U.S.C. § 124(b)(2).

V. ADDITIONAL REQUIREMENTS

11. Plaintiffs and Defendants all demanded a jury trial in state court.
12. Written notice of removal will be provided to Plaintiffs and filed with the District Clerk of Fort Bend County, Texas, promptly, pursuant to 28 U.S.C. § 1446(d).

VI. DESIGNATION OF DEFENSE COUNSEL

13. Defendants, AMUEL TRUCKING LLC AND AMANUEL TAMRAT, designate the following attorneys as their counsel in this action:

BRIAN G. CANO (lead attorney / attorney to be noticed)

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Kyle J. Moore (attorney to be noticed)

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VII. CONCLUSION

14. Having satisfied the requirements for removal under 28 U.S.C. §§ 1441, 1446, and 1332, Defendants hereby give notice that Cause No. 23-DCV-306138; *Manuel Cardenas, Individually and as Next Friend of X.X. and XY.X., Minors v. Amuel Trucking LLC and Amanuel Tamrat*; now pending in the 268th Judicial District of Fort Bend County, Texas, has been removed to this Court.

Dated: August 7, 2023.

Respectfully submitted,

FEE, SMITH, & SHARP, L.L.P

/s/ *Kyle J. Moore*

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ATTORNEYS FOR DEFENDANTS,

AMUEL TRUCKING, LLC and AMANUEL TAMRAT

CERTIFICATE OF SERVICE

THIS WILL CERTIFY that, on August 7, 2023, a true and correct copy of the foregoing instrument was served via email on the counsel listed below:

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